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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,544	04/20/2004	Drew Krah	KTWO122671	3881
26389	7590	03/09/2005	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			SHRIVER II, JAMES A	
		ART UNIT	PAPER NUMBER	
		3618		

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*ISY*

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/828,544	KRAH, DREW	
	<b>Examiner</b>	<b>Art Unit</b>	
	J. Allen Shriver	3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 September 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 29-35 and 37-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 29-33,35 and 37-41 is/are rejected.
- 7) Claim(s) 34 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 April 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All
    - b) Some \*
    - c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/20/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

## **DETAILED ACTION**

### ***Preliminary Amendment***

1. Applicant's submittal of a preliminary amendment was received on September 2, 2004, wherein claims 1-28 and 36 were cancelled and new claims 37-41 were added.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.  
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claim 29 is rejected under 35 U.S.C. 102(b) as being anticipated by Belogour (US Patent 5,503,413).** Belogour discloses a skate including a glide member for traversing a surface, comprising a shoe portion (10) for receiving a skater's foot and including a base (12) underlying the received foot; and an elongate frame (44) for mounting the glide member, the frame pivotably secured to an underside of the base, wherein the frame is balanced to prevent substantial biasing of the frame towards the base.

4. **Claims 35, 37-38 and 40-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Svensson et al. (US Patent 6,120,040).** Svensson et al. discloses a skate including a glide member for traversing a surface comprising a shoe portion (12) for receiving a skater's foot and

including a flexible base (14) underlying the received boot, and an elongate frame (26) for mounting the glide member, the frame operably coupled to the base, wherein the base is neutrally biased; [claim 37] wherein the flexible base has about zero flex strength; [claim 38] wherein the flexible base is made from a resilient base material with little spring force; [claim 40] wherein the flexible base has an area of reduced thickness (22) at the point of flexion; and [claim 41] wherein the flexible base is made from a thermoplastic material that has a transverse groove (22) on the underside of the base.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belogour (US Patent 5,503,413) in view of Chang (US Patent 5,842,706).** Belogour discloses the skate as set forth above including a biasing device (18) operably mounted on the frame, for biasing the frame away from the base, but does not disclose wherein the frame is operably coupled to the base to allow the frame to move in an arc motion away from the base. Chang discloses wherein the frame is operably coupled to the base to allow the frame to move in an arc motion away from the base (See Fig. 3). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to allow the frame to move in an arc motion away from the base in

Belogour in view of the teaching of Chang. The motivation for doing so would have been to allow the frame to move farther away from the base.

**7. Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Belogour (US Patent 5,503,413) and Chang (US Patent 5,842,706) as applied to claim 30 above, and further in view of Svensson et al. (US Patent 6,120,040).** The combination of Belogour and Chang discloses the skate as set forth above including wherein the base further includes a heel region and forefoot region and wherein the frame is secured to an underside of the forefoot region of the base, but does not disclose the base being adapted to flex at a metatarsal region at the forefoot region during skating. Svensson et al. discloses a skate wherein the base is adapted to flex at a metatarsal region at the forefoot region during skating (See Fig. 2). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to allow the base disclosed in Belogour to be adapted to flex at a metatarsal region of the forefoot during skating as taught by Svensson et al. The motivation for doing so would have been to allow the heel portion of the base to pivot more freely in relation to the forefoot of the base.

Regarding claim 32, Belogour discloses further comprising a guide (20) secured to the frame for slidably engaging a follower (16), wherein the follower is secured to the heel portion of the base.

**8. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Belogour (US Patent 5,503,413), Chang (US Patent 5,842,706) and Svensson et al. as applied to claims 30-32 above, and further in view of Chang (US Patent 6,053,512).** The combination for Belogour, Chang and Svensson et al. disclose the skate as set forth above, but does not disclose a

controller to adjust the amount of biasing. Chang ('512) discloses a controller (32,33) to adjust the amount of biasing (See column 2, lines 45-57). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a controller to adjust the bias of the spring disclosed in Belogour as taught by Chang ('512). The motivation for doing so would have been to adjust the spring force of the spring.

9. **Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svensson et al. (US Patent 6,120,040) in view of Examiner's Official Notice.** Svensson et al. discloses the skate as set forth above, but does not disclose wherein the flexible base is made from leather. Examiner takes Official Notice that it is notoriously old and well known that skate bases have been made from leather. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to make the base disclosed in Svensson et al. from leather. The motivation for doing so would have been to allow the base of the boot to be lightweight and flexible.

***Allowable Subject Matter***

10. Claim 34 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3618

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

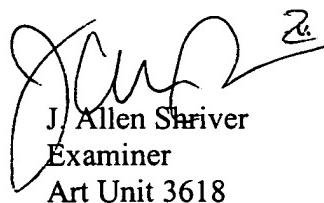
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (703) 305-0168. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or faxed to: (703) 305-3597 or (703) 305-7687 (for formal communications intended for entry. (703) 746-3852 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
J. Allen Shriver  
Examiner  
Art Unit 3618

3/5/05

JAS